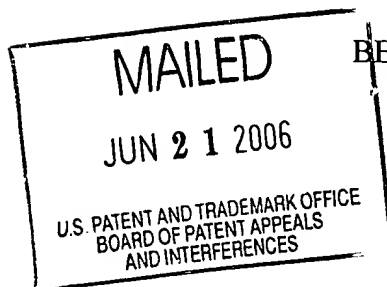


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

_____ Ex parte TORU SHIRASAKI _____

_____ Application No. 09/752,688 _____

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on June 6, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On September 19, 2005, appellant filed an Appeal Brief. A review of the Appendix to the Brief reveals that appellant's Appendix does not contain a clean copy of claim 8 on appeal.

Moreover, on December 30, 2005, the examiner mailed an Examiner's Answer. On pages 2 and 3, section (8) of the Answer entitled "Evidence Relied Upon," the examiner states that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal." However, a review of the Answer reveals that the examiner relies upon Beldyk (U.S. Patent No. 5,042,655) in the rejection of claims on appeal. The Manual of Patent Examining Procedure (MPEP) § 1207.02 (8th ed., Rev. 3, August 2005) clearly states:

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, submitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Application No. 09/752,688

Accordingly, it is

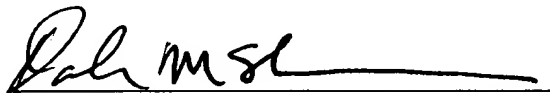
ORDERED that the application is returned to the examiner for resolution of the following issues:

(1) to notify appellant to submit a clean copy of the Appendix to the Brief filed on September 19, 2005, or for the examiner to submit a clean copy of claim 8 on appeal;

(2) to vacate the Examiner's Answer mailed on December 30, 2005, to submit a corrected Examiner's Answer identifying the "Evidence Relied Upon" in the rejection of claims on appeal, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:



DALE M. SHAW
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DMS:clm